

**HOME RULE CHARTER**  
**TOWN OF OPHIR**  
**SAN MIGUEL COUNTY**  
**STATE OF COLORADO**

**Adopted 1979**

**Amended July 18<sup>th</sup>, 2000**

**PREFATORY SYNOPSIS**

This Charter is intended to be as simple and brief as possible, while including all the necessary and legal provisions for governance. This has been achieved by assuming the broadest powers available, and vesting them in a General Assembly of the People, congruent to the Constitution of the United States and its Congress. Legislative procedures included as part of the Charter are meant to give initial structure to the General Assembly, while in no way interfere with the sovereignty of the People.

**PREAMBLE**

We the People of Ophir, Colorado, to insure our right to municipal self-determination, maintain our autonomy from the federal, state, and regional authorities, and protect our natural resources and the harmony of our environment, do declare it our purpose and within the full and proper exercise of our Power, Love, and Wisdom, to reformulate our government as a Home Rule municipality under the provisions of Article XX of the Constitution of the State of Colorado as amended.

**ARTICLE I**  
**GENERAL PROVISIONS**

**Section 1. Name and Boundaries.** The municipal corporation heretofore existing as the Town of Ophir in San Miguel County, State of Colorado, shall remain and continue a body politic and corporate and under this Charter be known as the Town of Ophir with boundaries the same until changed in accordance with law.

**Section 2. Powers.** The Town of Ophir shall have (1) any and all, but not limited to these, powers granted by the Constitution and laws of the State of Colorado and/or the United States of America, (2) the power to supercede any law of this State and/or these United States new or hereafter in force, in so far as it applies to local or municipal affairs, (3) all powers that now or hereafter may be granted to municipalities by the laws of the

State of Colorado and/or the United States of America, (4) all other powers granted by this Charter, and (5) any other powers which shall be deemed necessary and proper for carrying into execution the foregoing powers. The enumeration of particular powers in this Charter shall not be deemed to be exclusive of others.

**Section 3. Constitutionality.** Any portion of this Charter found to be unconstitutional by courts claiming jurisdiction over the Town of Ophir shall not affect the remainder thereof, but as to such remainder, this Charter shall remain in full force and effect until amended or repealed.

**Section 4. Liabilities.** All debts contracted and engagements entered into, before the adoption of this Charter, shall be as valid against the Town of Ophir under this Charter, as under the State Statutes.

**ARTICLE II.  
ELECTIONS AND ELECTORATE**

**Section 1. Elections and Electorate.**

The General Assembly shall be the sole judge of Town elections and qualifications of its own members. Except as otherwise provided in this Charter or any Town ordinance, no person shall be permitted to vote at any Town of Ophir Election or at any meeting of the General Assembly without first having registered with the Town Clerk.

**Section 2. Electorate.**

**A. Qualifications to Vote in Town Election.** A qualified elector is any person eighteen (18) years of age or older who has resided within the Town of Ophir for thirty (30) days immediately preceding the election at which the person offers to vote and has registered to vote with the Town Clerk at least thirty (30) days prior preceding the election at which the person offers to vote.

**B. Qualifications to Serve as Member of the General Assembly.** A qualified member of the General Assembly is any person eighteen (18) years of age or older who has resided within the Town of Ophir for thirty (30) days immediately preceding any meeting of the General Assembly in which the person offers to vote and has registered to vote with the Town Clerk at least thirty (30) days prior preceding the election at which the person offers to vote.

**C. Registration.** The Town Clerk shall register any qualified elector who appears in person at the office of the Clerk at any time when registration is permitted. However, to qualify to vote in an upcoming municipal election or General Assembly meeting, electors must be registered thirty (30) days

prior to that election or meeting. In order to more efficiently administer this section, the Clerk may designate other qualified persons, offices or locations for registration of Town electors, provided that such arrangements in no way abridge the rights herein guaranteed electors.

**D. Maintenance of Voter Rolls.** The Town Clerk has the authority maintain the voting rolls of the Town of Ophir and of the General Assembly. The Town Clerk may choose to purge the voting rolls pursuant to procedures established by the Town Clerk. The post card shall state Article II, Section 2, paragraphs A, B and C of this Charter, in their entirety.

**Section 3. Applications for Absentee Ballots.**

Applications for absentee ballots may be requested no sooner than January 1 immediately preceding the election and must be filed no later than 5:00 p.m. on the day preceding the election for which the absentee ballot has been requested.

**Section 4. Colorado Municipal Election Laws Adopted with Reservation**

Procedures for arranging, conducting and determining the results of municipal elections and shall conform with the Colorado Municipal Election Laws, provided that in any case of conflict between the Colorado Municipal Election Laws and provisions of this Charter or any Town ordinance, the local provision shall be deemed valid.

**Section 5. Nonpartisan Elections.**

All special and regular elections shall be nonpartisan. No candidate for any municipal office shall run under any party label.

**ARTICLE III.  
GENERAL ASSEMBLY PROCEDURE**

**Section 1. Regular Meetings.** The General Assembly shall meet regularly at least once a month at a day and hour to be fixed by the General Assembly. Written notice of the meeting together with an agenda for the meeting shall be posted in Town Hall and published in a newspaper of general circulation in San Miguel County at least five days prior to the date of the regular meeting.

**Section 2. Special Meetings.** Special meetings shall be called by the Town Mayor or the Town Manager or any three members of the General Assembly after written notice posted in the Town Hall and published in a newspaper of general circulation in San Miguel County at least five days prior to the date of the special meeting. No business shall be transacted at any special meeting unless it has been stated in the notice of such meeting.

**Section 3. Emergency Meetings.** Emergency meetings may be held with twenty-four (24) hours notice when necessary for the immediate preservation of public property, health, peace or safety. An emergency meeting shall be held only if a diligent, good-faith effort has been made to give actual notice to all of the members of the General Assembly.

**Section 4. Quorum.** Seven members of the General Assembly shall constitute a quorum at all regular, special and emergency meetings of the General Assembly of the Town of Ophir, but in the absence of a quorum, a lesser number may adjourn any meeting to a later time or date.

**Section 5. Actions of the General Assembly.** The General Assembly shall take official action by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances. All other actions, except as herein provided, may be in the form of resolutions or motions.

**Section 6. Voting.** Except as otherwise provided for in this Charter, every ordinance, resolution or motion shall require the affirmative vote of a majority of the members of the General Assembly present. The results of such vote shall be entered upon the minutes of the General Assembly. Except as otherwise provided for in this Charter or other Town ordinance, every ordinance, resolution or motion shall require the affirmative vote of a majority of those General Assembly members present. No member of the General Assembly shall vote on any question in which he or she has a personal or financial interest, other than the common public interest, or on any question concerning his or her own conduct.

**Section 7. Extraordinary Majority.** The passage of any ordinance creating an indebtedness, authorizing the borrowing of money or levying of tax shall require the affirmative vote of a majority of the members of the General Assembly present plus one.

**Section 8. Form of Ordinance.** Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: **"THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR HEREBY ORDAINS. . ."**.

**Section 9. Action by Ordinance Required.** In addition to such acts of the General Assembly that are required by other provisions of this Charter to be by

ordinance, every action making an appropriation, creating an indebtedness, authorizing the borrowing of money, levying tax, establishing any rule or regulation for the violation of which a penalty is imposed, disposing of any real estate, or placing any burden upon or limiting the use of private property shall be by ordinance; provided, however, that this section shall not apply to the budget adoption procedure in Article VI. Ordinances making appropriations shall be confined to the subject of appropriation.

**Section 10. Initiating an Ordinance or other Matters.**

A. Ordinances shall be placed on the agenda of the General Assembly by one of the following methods:

1. A Petition which sets forth the ordinance or other matter. The Petition shall be signed by no fewer than seven members of the General Assembly, the mailing address of each signer, the date of signing of each signature, and an affidavit of the circulator of the Petition that each signature therein is the signature of the person whose name it purports to be. The Petition shall be submitted to the Town Clerk who shall review the Petition, determine whether it complies with this section 1.3.A, and if so, then certify the Petition and refer the Petition to the General Assembly.

2. A motion which is approved by one-third of the members of the General Assembly present at any regular meeting of the General Assembly and which sets forth the substance of the ordinance or other matter and directs the Clerk to place the ordinance or other matter on the next regularly scheduled meeting of the General Assembly.

3. Any staff person, elected official of the Town of Ophir, or Chair of a standing Committee of the Town may direct the Clerk to place an ordinance or other matter on the next regularly scheduled meeting of the General Assembly.

B. Any member of the General Assembly may direct the Clerk to place a matter for discussion on the agenda of the next regular meeting of the General Assembly.

**Section 11. Ordinance Procedure.**

Except for emergency ordinances, ordinances making general codification of existing ordinances, and ordinances adopting standard codes, the following procedure for enactment of ordinances shall be followed.

A. At any regular or special meeting, the proposed ordinance shall be introduced in writing by any elected official of the Town of Ophir or by any member of the General Assembly who signed a petition initiating an Ordinance. Copies of the ordinance shall be provided to members of the General Assembly and the Ordinance shall be read by title only.

B. After the first reading of the ordinance, the same shall be referred to public hearing with or without amendment or rejected by a vote of the General Assembly.

C. If the Ordinance is referred to public hearing, the General Assembly shall schedule such public hearing at a next regular monthly meeting of the General Assembly. Notice of the public hearing shall be published prior to the meeting and shall contain the date, time and location of the public hearing and the title of the proposed ordinance.

**D.** At the public hearing, the proposed ordinance shall be considered. Copies of the proposed ordinance shall be provided to the members of the General Assembly. The previous introduction of the ordinance shall appear in the certificate and the attestation of the clerk on the ordinance after its adoption. The proposed ordinance may be amended before final approval by vote of the General Assembly or the General Assembly may vote to reject the ordinance.

**E.** After final adoption of the ordinance, a public notice shall be published containing a brief description of the ordinance, its effective date, and penalty clause, if any, and notice that copies are available for inspection with the Town Clerk.

**Section 12. Emergency Ordinances.**

Emergency ordinances for the preservation of public prosperity, health, peace or safety shall be approved by the affirmative vote of a majority of the members present at the meeting of the General Assembly wherein the emergency ordinance is presented. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by Town owned utility shall ever be passed as an emergency measure. An emergency ordinance shall be passed by two readings, as provided for in Paragraph 11 above. An emergency ordinance shall take effect immediately upon final passage and shall be published in full as soon thereafter as possible and no later than ten (10) days after passage.

**Section 13. Codes.** Standard Codes promulgated by the Federal Government, the State of Colorado, or by any agency or either of them, or by any agency or either of them, or by any political subdivision within

the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference by ordinance; provided, however, that public notice of the adoption of any such code shall advise that copies are available for inspection from the Town Clerk and provided, further, that any penalty clause in any code may be adopted only if set forth in full in the adopting ordinance. A copy of the code as adopted shall be certified by the Town Clerk and kept with the adopting ordinance as prescribed in Paragraph 1.5

**Section 14. Disposition of Ordinances.**

A true copy of every ordinance shall be numbered and recorded in the official records of the Town and authenticated by the signature of the Mayor and the Town Clerk.

**Section 15. Public Records.** All records of the Town shall be open for inspection by any person at reasonable times and upon notice to the Town Clerk, except where otherwise provided by State or Federal law.

**ARTICLE IV.**

**RECALL OF ELECTED OFFICIAL**

**Section 1. Initiative.** Initiatives to recall an elected official shall be placed on the agenda of the General Assembly by petition. The petition shall be signed by no fewer than twenty (20) members of the General Assembly and shall include the mailing address of each signer, the date of signing of each signature, and an affidavit of the circulator of the Petition that each signature therein is the signature of the person whose name it purports to be. The Petition shall be submitted to the Town Clerk who shall review the Petition, determine whether it complies with this

Paragraph 1, and if the petition meets such requirements, then certify the Petition and refer the Petition to the General Assembly.

**Section 2. Public Hearing.** The General Assembly shall remove a member of a permanent Board or Commission only for good cause and only after notice and hearing. Removal of a member of a permanent Board or Commission shall be by a vote of two-thirds of the members of the General Assembly present.

## **ARTICLE V. BOARDS AND COMMISSIONS**

**Section 1. Existing Boards and Commissions.** All existing Boards and Commissions shall continue as established by ordinance, except as otherwise provided by ordinance or this Charter.

**Section 2. Composition.** The following shall apply to the composition of any permanent Board or Commission:

**A.** Terms and conditions of appointment shall be determined by ordinance, except that no term shall be longer than four (4) years.

**B.** There shall be no limitation on the number of terms a member may serve.

**Section 3. Establishment.** All permanent Boards and Commissions shall be created or dissolved by ordinance, which shall set forth the powers and duties delegated to such Boards and Commissions. Initial appointment by the General Assembly to any Board or Commission shall specify the term of each individual member in order to achieve overlapping tenure. The chairperson shall be appointed by the members of the respective Boards and

Commissions. Each Board and Commission shall operate in accordance with its own rules of procedure and all Board or Commission meetings shall be open to the public.

## **ARTICLE VI. FINANCE**

**Section 1. Fiscal Year.** The fiscal year of the Town shall begin on the first day of January and end on the last day of December.

**Section 2. Preparation and Submission of Budget and Message.** By August 1<sup>st</sup> of each year, the Town Treasurer shall give public notice of budget preparation for the next fiscal year. The Town Treasurer shall ask that all Town departments, Boards, Commissions or citizens submit to him or her, within thirty (30) days from thenotice, any requests for funds under the budget being prepared. The Town Treasurer shall then prepare a proposed budget and an accompanying message for the ensuing fiscal year and submit it to the General Assembly no later than forty-five (45) days prior to any date required by state law for the certification to the County of the tax levy.

**Section 3. Budget Message.** The Town Treasurer's budget message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies fo the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with reasons for such changes, summarize the Town's debt position, and include such other material as the Town Treasurer deems

desirable or which the General Assembly may require.

**Section 4. Budget Content.** The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Treasurer shall utilize the most feasible combinations of expenditure classification by fund, organization unit, program, purpose or activity. It shall begin with a clear and general summary of its contents, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. In separate sections, at a minimum, it shall indicate:

A. anticipated revenues classified as cash surplus, miscellaneous revenues, and amount to be received from property tax; cash surplus being defined for purposes of this Article as the amount by which cash is expected to exceed current liabilities and encumbrances at the beginning of the ensuing fiscal year;

B. proposed expenditures for current operations during the ensuing fiscal year, and the method of financing such expenditures;

C. a reasonable provision for contingencies which shall not be available for expenditures;

D. proposed capital expenditures during the ensuing fiscal year and the method of financing each capital expenditures; and,

E. anticipated net surplus or deficit for the ensuing fiscal year for each utility owned or operated by the Town and proposed methods of its disposition; subsidiary budgets for each such utility giving detailed income and

expenditure information shall be attached as appendices to the budget. The total proposed expenditures and provisions for contingencies shall not exceed the total of estimated revenue.

**Section 5. Capital Program.** The Town Treasurer, with such assistance as the General Assembly may direct, shall prepared and submit to the General Assembly a capital program at least two (2) months prior to the final date for submission of the long-term budget. The capital program shall include:

A. A clear general summary of its contents;

B. A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supportive information as to the necessity for the improvement;

C. Cost estimates, method of financing and recommended schedules for each such improvement; and,

D. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised or extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**Section 6. Public Hearing.** A public hearing on the proposed budget and proposed capital program shall be held by the General Assembly on the proposed budget and proposed capital program shall be held by the General Assembly on any date at least fifteen (15) days prior to the final day established by law for the certification of the ensuing fiscal year's tax

levy to the County. Notice of the time and place of such hearing shall be published one (1) time at least seven (7) days prior to the hearing.

**Section 7. Budget Amendment.** After the public hearing, the General Assembly may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit.

**Section 8. Budget Adoption.** The General Assembly shall adopt the budget by resolution on or before the final day established by law for the certification of the ensuing year's tax levy to the County. If it fails to adopt the budget by this date, the amounts appropriated for the current operation for the the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the General Assembly adopts the budget for the ensuing fiscal year.

**Section 9. Property Tax Levy.** Adoption of the budget by the General Assembly shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed. The General Assembly shall cause the same to be certified to the County Assessor as required by law.

**Section 10. Contingencies.** The budget shall include an item for contingencies. Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to contingencies; but

instead, the necessary part of the appropriation for contingencies shall be transferred to the logical account, and the expenditure charged to such account. No such transfer, appropriation or expenditure shall be made except by ordinance or resolution, and then only for expenditures which could not readily be foreseen at the time the budget was adopted.

**Section 11. Public Records.** Copies of the budget and the capital program as proposed or adopted shall be public records and shall be made available for inspection by the public.

**Section 12. Amendments After Adoption.**

**A. Supplemental Appropriations.** If during the fiscal year the Town Treasurer certifies that there are revenues in excess of those estimated in the budget, the General Assembly by ordinance may make supplemental appropriations for the year up to the amount of such excess.

**B. Emergency Appropriations.** To meet an emergency affecting public property, health, peace or safety, the General Assembly may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of Section 13. To the extent that there are no available unappropriated revenues to meet such appropriation, the General Assembly may by emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals thereof shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.



**C. Reduction of Appropriation.** If at any time during the fiscal year it appears probably to the Town Treasurer that the revenues available will be insufficient to meet the amount appropriated, he or she shall report to the General Assembly without delay, indicating the estimate amount of deficit, any remedial action already taken, and his or her recommendation as to any other steps to be taken. The General Assembly shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may be ordinance reduce one (1) or more appropriations.

**D. Transfer of Appropriations.** Any time during the fiscal year the Town Treasurer may transfer part or all of any unencumbered appropriation balance among programs within a department, office, agency or fund. The General Assembly may by ordinance transfer part or all of any unencumbered appropriation balance from one (1) department, office, agency, fund or object to another. Such ordinance shall specify terms of repayment to the original budget section, or specify that repayment shall be waived.

**E. Limitations: Effective Date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriation and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

**Section 13. Independent Audit.** An independent audit shall be made of all Town accounts, as required by law. Such audit

shall be made by certified public accountants to perform such audit which shall be completed within four (4) months time of the close of the fiscal year. Copies of such audit shall be made available for public inspection at Town Hall.

## **ARTICLE VII MUNICIPAL BORROWING**

**Section 1. Forms of Borrowing.** The Town may borrowing money and to evidence such borrowing may issue the following securities in accordance with the provisions of this section:

- A.** General obligation bonds and other like securities;
- B.** Revenue bonds and other like securities;
- C.** Special or local improvement bonds and other like securities;
- D.** Short-term notes.

**Section 2. General Obligation Bonds.** No bonds or other evidence of indebtedness payable in whole or in part from the proceeds of ad valorem taxes, or to which the full faith and credit of the Town are pledged, shall be issued until the question of their issuance shall, at a special or regular election, be submitted to a vote of the electors of the Town of Telluride and approved by a majority of those voting on the question. The aggregate amount of such securities shall not exceed twenty percent (20%) of the assessed valuation for the taxable property within the Town as shown by the latest assessment. However, such securities issued for creating, improving or extending any municipal utility system, including water and sewer systems and flood control systems, may be issued without an

election and shall not be included in the determination of such debt limitation.

**Section 3. Revenue Bond.** The General Assembly pursuant to ordinance and thirty (30) days' public notice and without an election, may borrow money, issue bonds or otherwise extend its credit for purchasing, equipping and constructing a public utility or income-producing project, provided that the bonds or other obligations shall be made payable from the net revenues derived from the operation of such project, or from the proceeds of any revenue tax other than general ad valorem tax, levied in accordance with this Charter, so long as the full faith and credit of the Town are not pledged for the payment of such securities. Such securities shall not be deemed to be subject to any debt limitation nor to affect the Town's debt incurring power.

**Section 4. Refunding Bonds.** The General Assembly may authorize, by ordinance, without an election, issuance of refunding securities for the purpose of refunding and providing for the payment of outstanding securities or other obligations of the Town as they mature, or in advance of maturity by means of an escrow or otherwise.

**Section 5. Special or Local Improvement Bonds.** The Town shall have the power to create local improvement districts and construction or installation of special or local improvements of every character against benefited property within designated districts in the Town by:

A. Order of General Assembly, subject, however, to protest by the owner or owners of a majority of all property benefited and constituting the basis of

assessment as the General Assembly may determine; or,

B. On a petition by more than fifty (50%) percent of the landowners in the area of the proposed district.

In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and notice of public hearing shall be given as provided by the General Assembly ordinance. Such improvements shall confer special benefits to the real or personal property within said district and general benefits to the Town at large. The General Assembly shall have the power by ordinance without an election to proscribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for cost of constructing or installing such improvements, including the costs incidental thereto.

Where all outstanding bonds of a special or local improvement district have been paid and any moneys remain to the credit of the district, they shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any special or local improvement district fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund.

Whenever a special or local improvement district has paid and cancelled three-fourths (3/4) of its remaining assessments are not paid in time to take up the remaining bonds of the district and the interest due thereon and there is not sufficient moneys in the special surplus and deficiency fund, then the Town shall pay said bonds when due and the interest due thereon, and reimburse itself by

collecting the unpaid assessments due said district.

In consideration of general benefits conferred upon the Town at large from the construction and installation of improvements in improvement districts, the Council may levy annual taxes without an election on all taxable property within the Town at a rate to be determined by the General Assembly for the purpose of advancing moneys to maintain current payments of interest and equal annual payments to the principal amount of bonds issued for any improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the General Assembly may annually transfer to such special fund any available moneys of the Town.

**Section 6. Short-term Notes.** The Town is hereby authorized to borrow money, by the affirmative vote of the General Assembly, without a public election in anticipation of the collection of taxes or other revenues and to issue short-term notes to evidence the amount so borrowed. Such short-term notes shall mature within twelve (12) months from the date of issue.

**Section 7. No Additional Limitations.** Except as explicitly provided in this Article, there shall be no limitations on the authority of the General Assembly to incur indebtedness or to issue securities.

## **ARTICLE VIII TAXATION**

**Section 1. Authority to Levy Taxes.** The General Assembly may levy general ad valorem property taxes for municipal

purpose. However, such levy shall be computed so as to prohibit the collection of a greater amount of property tax revenue than was collected in the preceding year plus seven (7) percent except to provide for the payment of bonds and interest thereon. In computing the seven (7) percent limit, the increased valuation for assessment attributable to annexation or inclusion of additional land and the improvements thereon within the taxing district for the preceding year or attributable to new construction within the taxing district for the preceding year shall be excluded. The General Assembly may increase this seven (7) percent limit if approved by a majority of the electors voting at a regular or special election.

The General Assembly may also levy and collect, without limitation, special assessments for local improvements as provided in this Charter. However, no tax shall hereinafter be levied until such tax has been approved by a majority of the qualified electors voting at a regular or special election.

## **ARTICLE IX MISCELLANEOUS LEGAL PROVISIONS**

**Section 1. Eminent Domain.** The Town shall have the right of eminent domain to acquire property both within and without the boundaries of the Town for any purpose deemed by the General Assembly to be in the Town's best interest.

**Section 2. Reservation of Power.** The power to supersede any law of this state now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the Town, acting by ordinance, subject only to prohibitions of the State

Constitution. It is the intention of this Charter to rant and confirm to the people of the Town of Ophir the full right of self-government on local and municipal matters and to that end to grant and confirm unto the Town all governmental powers not prohibited by the Constitution. The enumeration in this Charter of certain powers shall not be construed to deny the Town any other right or power.

**Section 3. De-Annexation.** The General Assembly with notice to property owners and after public hearing may de-annex or redraw its boundaries to exclude territory previously included in the corporate limits of the Town, so long as no area may be de-annexed or withdrawn which has been provided with municipal utilities.

**Section 4. Liability of Town.** No action for recovery of compensation for personal injury, death or property damage against the Town on account of its negligence shall be maintained unless written notice of the alleged time, place and cause of injury, death or property damage is given to the Town Clerk by the person injured, or an agent o attorney of that person, within thirty (30) days of the occurrence causing the injury, death or property damage. The notice given under the provisions of this Section shall not be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of injury, if it is shown that there was not intent to mislead and that the Town in fact was not misled thereby. this provision shall not be construed as a waiver of any governmental immunity the Town may have nor as prohibiting the Town from authorizing and appropriating compensation for any injury, death or property damage, as the General Assembly sees fit.

**Section 5. Severability of Charter Provisions.** If any article, section, sentence, clause, phrase, word or other provision of this Charter or the application thereof to any person or circumstance shall be found to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining articles, sections, sentences, clauses, phrases, words or other provisions of this Charter, or the validity of this Charter as an entirety.

**Section 6. Charter Amendments.** This Charter may be amended at any time as provided by Town ordinance. Nothing herein contained shall be construed as preventing the submission to the General Assembly of more than one (1) Charter amendment at any one (1) election. If provisions of two (2) or more proposed amendments adopted or approved at the same election conflict, the amendment receiving the highest affirmative vote shall become effective.

**Section 7. Interpretations.** Except as otherwise specifically provided or indicated by the context hereof, all words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein. The singular number shall include the plural, the plural shall include the singular, and the word "person" shall extend and be applied to bodies politic and corporate and to partnerships as well as to individuals.

**ARTICLE X  
TRANSITION OF GOVERNMENT**

**Section 1. Effective Date of the Charter.** This Charter shall become effective immediately upon certification of voter approval.

**Section 2. Empowerment of the General Assembly.** The General Assembly shall be vested with all powers granted under the provisions of this Charter upon the first regular meeting of the Town of Ophir after the ratification of this Charter by the qualified electors of the Town of Ophir.

**Section 3. Dissolution of the Legislative Power of the Town.** All bylaws, ordinances, resolutions, rules and regulations of the Town which are not inconsistent with this Charter and which are in force and effect at the effective date of

this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.

**Section 4. Savings Clause.** This Charter shall not affect any suit pending in any Court or any document heretofore executed in connection therewith. Nothing in the Charter shall invalidate any existing contracts between the Town and any person or public agency.

**Section 5. Ordinances In Force.** The present ordinances of the Town of Ophir are hereby adopted by reference as ordinances, except where they conflict with this Charter, and until the General Assembly shall deem otherwise.

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